

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Abigail Shuster	Team: Squad #15	CCRB Case #: 201510485	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/25/2015 1:15 PM	Location of Incident: 106th Precinct stationhouse	Precinct: 106	18 Mo. SOL 5/25/2017	EO SOL 5/25/2017	
Date/Time CV Reported Mon, 12/14/2015 8:52 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/14/2015 8:52 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DI Jeffrey Schiff	00000	918548	106 PCT
2. LT Jerome Bacchi	00000	923531	106 PCT
3. An officer			106 PCT
4. POM Joseph Catanese	10407	950178	106 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ryan Kenny	01715	930472	106 PCT
2. DTS Brenda Reddick	4483	929010	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Catanese	Abuse: Police Officer Joseph Catanese did not process § 87(2)(b) s complaint regarding officers.	
B.LT Jerome Bacchi	Abuse: Lieutenant Jerome Bacchi did not process § 87(2)(b) s complaint regarding officers.	
C.DI Jeffrey Schiff	Abuse: Deputy Inspector Jeffrey Schiff threatened to arrest § 87(2)(b)	
D. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	

Case Summary

On November 25, 2015, at approximately 2:15pm, § 87(2)(b) appeared at the 106th Precinct stationhouse in Queens to speak with a supervising officer regarding officers' response to § 87(2)(b)'s request for assistance in locating his daughter. Lt. Jerome Bacchi and PO Joseph Catanese worked as the 106th Precinct desk officer and Telephone Switchboard Operator, respectively, at the time. § 87(2)(b) was given CCRB forms, but PO Catanese allegedly told § 87(2)(b) that he did not know what § 87(2)(b) ought to do with forms, and Lt. Bacchi allegedly said, "He's got to go," referring to § 87(2)(b) (**Allegations A and B**).

§ 87(2)(b) returned to the 106th Precinct stationhouse at approximately 3:15pm with a sign hung around his neck, describing his discontent with the services rendered there. While standing outside of the stationhouse, DI Jeffrey Schiff allegedly told an officer, "If he's not gone in five minutes, arrest him" (**Allegation C**). An officer then approached § 87(2)(b) and explained that he would have to picket from across the street or else he would have to arrest him (**Allegation D**). § 87(2)(b) left the stationhouse without being summonsed or arrested.

There is no video footage in this case.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation during his in-person statement, noting that an apology at this point would not be meaningful to him.
- A FOIL request was filed on March 15, 2016, to verify whether any notices of claim were filed in regard to this incident. The results will be added to the case file upon receipt.
- § 87(2)(c), § 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB (BR 1).
- This is PO Catanese's first CCRB complaint.
- During D.I. Schiff's 19-year tenure with the NYPD, he has been the subject of 5 previous CCRB allegations involving three cases and resulting in no substantiated allegations. No § 87(2)(g)
- During Lt. Bacchi's 16-year tenure with the NYPD, he has been the subject of 17 previous CCRB allegations involving 5 cases and resulting in no substantiated allegations. § 87(2)(g)

Allegation A –Abuse of Authority – Police Officer Joseph Catanese refused to process

§ 87(2)(b)'s complaint regarding officers.

Allegation B – Abuse of Authority – Lieutenant Jerome Bacchi refused to process § 87(2)(b)'s complaint regarding officers.

It is undisputed that PO Catanese gave § 87(2)(b) two CCRB forms at the conclusion of his first visit to the 106th Precinct stationhouse, under Lt. Bacchi's direction. What remains in dispute is whether PO Catanese and/or Lt. Bacchi engaged in behavior which interfered with § 87(2)(b)'s ability to file a complaint regarding officers.

§ 87(2)(b) testified that he entered the stationhouse with the intention of speaking with a supervising officer about an event that had transpired earlier that day. In sum and substance, officers from the 106th Precinct had responded to § 87(2)(b)'s 911 call for assistance in finding his adult daughter, who is a drug addict and had gone missing. He was dissatisfied with the responding officers' reluctance to help find her, and therefore went to the stationhouse to speak with their supervisor and recommend alternate ways of handling such jobs (BR 2).

Instead, § 87(2)(b) stated, PO Catanese liaised between himself and Lt. Bacchi, telling § 87(2)(b) that no one was available to speak with him. § 87(2)(b) was also allegedly told that he could not make an appointment to speak with a supervisor. At this point, § 87(2)(b) requested two CCRB complaint forms, one for the officers from the incident earlier that day, and one for Lt. Bacchi. § 87(2)(b) allegedly asked PO Catanese what he needed to do with the forms after completing them, and PO Catanese allegedly told him that he did not know. When PO Catanese walked back to Lt. Bacchi to ask him that question, Lt. Bacchi allegedly replied, "Tell him to leave"(BR 2).

PO Catanese testified that § 87(2)(b) entered the stationhouse and requested to speak with the Commanding Officer, whom he did not request by name but by the title "Commanding Officer." PO Catanese stated that he had never assisted civilians in the complaint-filing process before, so he channeled each of § 87(2)(b)'s questions to Lt. Bacchi, who was seated at the desk. Lt. Bacchi informed him that the Commanding Officer was not available to speak, but that he could be reached at the monthly community meeting; he also directed PO Catanese to the Civilian Complaint forms, which PO Catanese then gave to § 87(2)(b). PO Catanese testified that he then advised § 87(2)(b) of the various ways he could file his complaint: by calling 311, by calling the CCRB, by contacting the CCRB via mail, by filling out the paper form and depositing it at any police facility, or by attending a community meeting. PO Catanese denied having told § 87(2)(b) that he did not know what § 87(2)(b) should do with the forms, and he denied that any officer made any statements about § 87(2)(b) needing to leave the stationhouse (BR 3).

Lt. Bacchi corroborated PO Catanese's account of their conversations about § 87(2)(b). Because Lt. Bacchi remained behind the desk while PO Catanese liaised between himself and § 87(2)(b), he did not actually hear the majority of their conversation and could not speak to what information was relayed to § 87(2)(b). He denied ever telling PO Catanese that he was unsure what § 87(2)(b) should do with the forms. He also denied telling PO Catanese that § 87(2)(b) had to leave the stationhouse and at no point did he hear any officer tell § 87(2)(b) that he had to leave the stationhouse (BR 4).

When § 87(2)(b) did file the complaint with the CCRB, he did so by calling the Intake line and not by filling out the forms he had received, noting that he did not know where he ought to send them after completion.

The 106th Precinct stationhouse command log includes an entry written by Lt. Bacchi, which documents § 87(2)(b)'s visit to the stationhouse, stating: § 87(2)(b) given the Civilian

Complaint Report and provided instruction on filing by PO Catanese. § 87(2)(b) departed the 106 PCT. At 2:22pm without submitting the Civilian Complaint Report”(BR 13).

PO Catanese and Lt. Bacchi provided testimony that was too strikingly similar to be considered two independent accounts of the incident. For instance, they each described § 87(2)(b)'s demeanor in identical terms, and they recounted the instructions that PO Catanese allegedly provided to § 87(2)(b) in the same words (BR 3, BR 4).

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g). When Sgt. Kenny walked into the stationhouse, Lt. Bacchi took him aside and told him that § 87(2)(b) had entered the stationhouse earlier and had acted like “a fucking asshole.” He then asked Sgt. Kenny, “Can you help me get rid of this guy?”(BR 6).

Although this ostensible discrepancy has no direct bearing on these allegations, Sgt. Kenny’s account of his exchange with Lt. Bacchi does cast doubt on Lt. Bacchi’s statement that he was accommodating with respect to § 87(2)(b)'s concerns and that there was never an insinuation that § 87(2)(b) must leave the stationhouse. Again, the consistency between Lt. Bacchi and PO Catanese’s statements is such that their testimony ought to be taken as a single statement – particularly since Lt. Bacchi was interviewed first and he is PO Catanese’s superior officer.

However, Sgt. Kenny also testified that when he spoke to § 87(2)(b) about his complaints regarding treatment at the 106th Precinct stationhouse, § 87(2)(b) told him that he understood what to do with the complaint reports and that it was self-explanatory (BR 6).

§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
§ 87(2)(g).

Allegation C – Abuse of Authority – Deputy Inspector Jeffrey Schiff threatened to arrest

§ 87(2)(b)
§ 87(2)(b) alleged that, while picketing outside of the 106th Precinct stationhouse, D.I. Schiff walked past him along with Det. Reddick, both of them entering the stationhouse. Minutes later, D.I. Schiff exited the stationhouse. As he walked by a group of uniformed officers standing outside of the stationhouse entrance, D.I. Schiff allegedly said to an unidentified male officer, “Arrest him,” gesturing his head toward § 87(2)(b). That officer replied, “Yes, sir,” then approached § 87(2)(b) and told him he must stand on the opposite side of the street, and that if he did not do so, he would be arrested (BR 2).

D.I. Schiff testified to telling an officer (whose name he did not know) inside of the stationhouse that he ought to instruct § 87(2)(b) to move his picketing across the street. That officer replied, “Yes, sir.” He denied having told that officer to arrest § 87(2)(b) if he did not comply, or having said anything to anyone about the possibility of arresting § 87(2)(b). D.I. Schiff also denied giving this instruction while in § 87(2)(b)’s presence (BR 5).

D.I. Schiff explained that he instructed the officer to have § 87(2)(b) move across the street for two reasons: (1) § 87(2)(b)’s original position obstructed the stationhouse entrance; (2) the entrance was situated beneath scaffolding, making it a relatively unsafe place to stand (BR 5).

Det. Reddick, although she saw § 87(2)(b) standing outside of the stationhouse upon entering, did not hear or see any interaction between D.I. Schiff and any officers regarding § 87(2)(b). Sgt. Kenny spoke to § 87(2)(b) outside of the stationhouse after D. I. Schiff’s alleged threat of arrest. He testified that § 87(2)(b) informed him that D. I. Schiff had told an officer or officers, “If he’s not gone in five minutes, arrest him.” He did not personally witness this interaction, however, nor did any of the offices interviewed for this case (BR 7, BR 6).

§ 87(2)(b) alleged that D.I. Schiff threatened him with arrest. D.I. Schiff, who denied making any such threat, acknowledged having instructed an officer to move § 87(2)(b) across the street. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) consistently reported this allegation throughout his initial statement and his sworn statement. Even more significantly, he reported this allegation minutes after the incident to Sgt. Kenny, at which time he also reported the circumstances consistently. § 87(2)(g)

§ 87(2)(b)

One who is rightfully on a street which the state has left open to the public the constitutional right to express his views in an orderly fashion. Liberty of expression is not to be abridged on the plea that it may be exercised in some other place. Absent a clear and present danger of riot,

§ 87(2)(g)

Squad: 15

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date